Supreme Court, U. S.
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No. 78-1378

In the Supreme Court of the United States

OCTOBER TERM, 1978

PETER VAICEKAUSKAS, PETITIONER

v.

UNITED STATES OF AMERICA, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

WADE H. MCCREE, JR.
Solicitor General
Department of Justice
Washington, D.C. 20530

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The judgment of the court of appeals in this civil case was entered on October 18, 1978 (Pet. App. A1). Petitioner did not seek rehearing in the court of appeals, and he did not obtain an extension of time within which to file a petition. The time provided by 28 U.S.C. 2101(c) within which to file a petition for certiorari therefore expired on January 16, 1979. The petition was not filed until January 25, 1979. The time limit provided by Section 2101 (c) is jurisdictional. *Department of Banking* v. *Pink*, 317 U.S. 264 (1942). It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

WADE H. MCCREE, JR.
Solicitor General

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